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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,126	04/01/2004	Yueh Wen Hsiang	MR1957-870	8050
4586	7590	11/29/2005	EXAMINER	
ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			NGUYEN, DAVID Q	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,126

Applicant(s)

HSIANG, YUEH WEN

Examiner

David Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-9 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 10 recites the limitation " wherein the first winding mechanism and the second winding mechanism". There is insufficient antecedent basis for this limitation in the claim.

For examination purpose, examiner assumes that claim 10 depends on claim 2.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11/21/05
2. Claims 1 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hu et al. (US 5,177,784).

Regarding claims 1 and 5-9, Hu et al. disclose a wireless earphone of alternating extension and retraction functions (see fig. 2), comprising: a housing having a earpiece (see fig. 7-9; earpiece 48a or 50a); an amplifier; a first connection member capable of being alternately extended from and retracted into the housing (see fig. 8), wherein the first connection member electrically connects the amplifier and the housing (see fig. 8; earpiece in operation communication with an amplifier is inherent; see US 2004/0099130A1 page 1, par. 0012); a microphone (see fig. 9, 78b; col. 5, lines 17-21); and a second connection member capable of alternately being extended from and retracted into the housing and opposite to the first

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connection member, wherein the second connection member electrically connects the microphone and the housing (see figs. 7-9).

Regarding claims 5-9, Hu et al. also disclose wherein the housing includes an orientation slot formed therein, and the amplifier includes an orientation member relating to the orientation slot for secure engagement (see figs. 7-9); wherein the orientation member protrudes from the amplifier and is shaped as a clam, and the orientation slot is recessed from the housing to accommodate the orientation member (see figs. 7-9); wherein the housing includes an orientation recess formed therein to accommodate the microphone (see figs. 7-9); wherein the microphone is in a general or a throat vibration microphone (see figs. 7-9); further including a clamping member arranged on the housing (see figs. 7-9).

Allowable Subject Matter

Claims 2-4 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Hu et al. fail to disclose the wireless earphone including a first winding mechanism and a second winding mechanism both disposed inside the housing, wherein each of the first connection member and the second connection member is of a cable type for electrical connection to the first winding mechanism and the second winding mechanism, respectively as recited in claims 2-4 and 10.

Conclusion

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH H. FEILD can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mn

David Nguyen


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER